

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NORTH DAKOTA  
SOUTHEASTERN DIVISION

Michael Stephen Robb, )  
Plaintiff, ) Case No. 3:12-cv-96  
-vs- )  
Robert Roberts and Vicki Roberts, doing )  
business as Breadsmith of Fargo, )  
Defendants. )

**ORDER ADOPTING REPORT AND  
RECOMMENDATION**

The Court has received a Report and Recommendation from the Honorable Karen K. Klein, United States Magistrate Judge, pursuant to 28 U.S.C. § 636, recommending that the complaint be dismissed with prejudice and that no certificate of appealability be issued (Doc. # 12). Neither party filed an objection to the Report and Recommendation within the requisite time period.

The Court has reviewed the Report and Recommendation, along with the entire file, and finds the Magistrate Judge's analysis is correct. Accordingly, the Court hereby adopts the Report and Recommendation in its entirety. For the reasons set forth therein, Plaintiff's complaint is **HEREBY DISMISSED** with prejudice.

Additionally, based upon the entire record before the Court, dismissal of the complaint is not debatable, reasonably subject to a different outcome on appeal, or otherwise deserving of further proceedings. Accordingly, the Court hereby certifies that an appeal from the dismissal of this action would be frivolous and cannot be taken in good faith. See Coppedge v. United States, 369 U.S. 438, 444-45 (1962). The Court further finds that the plaintiff has failed to make a substantial showing of the denial of a constitutional right, and the issues presented in this case are inadequate to deserve further consideration. See Miller-El v. Cockrell, 537 U.S. 322, 327 (2003). Therefore, this Court will

not issue a certificate of appealability. If the plaintiff desires further review of his complaint, he may request the issuance of a certificate of appealability from a circuit judge of the Eighth Circuit Court of Appeals in accordance with Tiedeman v. Benson, 122 F.3d 518, 520-22 (8th Cir. 1997).

**IT IS SO ORDERED.**

**LET JUDGMENT BE ENTERED ACCORDINGLY.**

Dated this 26th day of June, 2013.

*/s/ Ralph R. Erickson*  
Ralph R. Erickson, Chief Judge  
United States District Court